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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated: 26th day of May 1998

Before
HON'BLE Mr.JUSTICE V.GOPALA GOWDA

WRIT PETITION No.2272/92

Between:

N.Nagaraja,
S/o.N.Narasimhaiah,
Asst.Purchase Officer,
Karnataka Silk Marketing
Board Ltd.,
Cubbonpet Main Road,
Bangalore-2.

...PETITIONER

(By Sri Ravi B.Naik)

And:

1. The Karnataka Silk Marketing Board Ltd., represented by its Managing Director, No.661, Mysugar Building, J.C.Road, Bangalore.
2. Niyaz Ahmed Sheriff, Officer, K.S.M.B.Ltd., Mongadiappa Street, Doddaballapur.
3. N.Somasekhara Gowda, Purchase Officer, K.S.M.B.Limited, Silk Exchange Building, Cubbonpet Main Road, Bangalore.
4. K.S.Gurulinga Swamy, Officer, K.S.M.B.Ltd., Kumbakonam, Tamil Nadu.

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5. G.Basavanna,
Officer, K.S.M.B.Ltd.,
Silk Exchange,
Ramanagaram,
Bangalore District.
6. K.M.Shivaramappa,
Officer, K.S.M.B.Ltd.,
Kanchipuram,
Tamil Nadu.
7. E.K.Babu,
Officer, K.S.M.B.Ltd.,
Twisting Section,
Silk Exchange Building,
Cubbonpet Main Road,
Bangalore-2.
8. Ramakrishnappa,
Officer, K.S.M.B.Ltd.,
Bangalore Sales Branch,
J.C.Road, Bangalore.
9. H.Kencha Dyamappa,
Officer, K.S.M.B.Ltd.,
Kollegal Branch,
Mysore District.
10. H.Purushothama Naik,
Officer, K.S.M.B.Ltd.,
Kollegal Banch,
Mysore District.RESPONDENTS

(By Sri B.B.Bajenthri for R-1)

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W.P. is filed under Article 226 of the Constitution of India praying to quash the orders at Annexure-D dated 4-5-1990 and Annexure-D1 dated 9-12-1991 passed by the first respondent and for a Mandamus directing the first respondent to effect promotion of the petitioner to the post of Officer w.e.f May 1990 as per the gradation list.

This W.P coming on for hearing this day, the Court made the following:-

ORDER



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ORDER

The petitioner is seeking to quash Annexures D and D-1 passed by the first respondent Karnataka Silk Marketing Board by which promotions were given to certain officers, and for a writ of mandamus directing the Board to promote the petitioner to the post of Officer with effect from May 1990 as per the gradation list at Annexure-C.

2. Learned counsel for the petitioner submits that as per the seniority list at Annexure-C, the rank of the petitioner is at Sl.No.3 and respondents 2 to 10 are juniors to him as they are below the petitioner in the said list. The grievance sought to be made out is that respondents 2 to 10 have been promoted as Officer eventhough they are juniors to the petitioner and he was eligible for promotion. According to the petitioner, the action of the first respondent in not promoting the petitioner and promoting his juniors is a clear case of discrimination and contrary to the well established law laid



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down in this regard. According to the petitioner, the promotions given vide Annexures D & D-1 are liable to be quashed.

3. Statement of objections are filed on behalf of the first respondent pointing-out the method of giving promotions to the post of officers. It is stated that seniority-cum-merit is the basis for promotion. It is pointed-out that the case of the petitioner for promotion was considered but he was found unsuitable. After referring to certain misconducts, mistakes and the loss caused by him to the institution, it is pointed-out that he was imposed with punishments after conducting departmental enquiries. It is also pointed-out that the petitioner was in the habit of taking loans from the customers. In this background, the Departmental Promotion Committee recommended four persons on 3-5-1990 but petitioner was not recommended. The promotion given to those four persons was the subject matter of W.P.No.10454/90 filed by the petitioner and the said petition was disposed of by an order dated 11-7-1990 with

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an observation that the first respondent shall consider the request of the petitioner for promotion. Again the Departmental Promotion Committee met on 4-10-1991 and it has decided to over-look him in view of certain adverse remarks in the Confidential Reports. Accordingly, the impugned order at Annexure D-1 was issued.

4. Having perused the petition averments and the statement of objections filed on behalf of the first respondent, I find that there is no merit in this petition. The reasons mentioned in the statement of objections are self-explanatory as to under what circumstances the impugned orders were passed and why the case of the petitioner has been over-looked. Petitioner is entitled for consideration of his case for promotion. His case has been considered by the Departmental Promotion Committee and being satisfied that he is not suitable for promotion, over-looked him. Since the case of the petitioner was considered twice, petitioner cannot claim the promotion as a matter of right. The impugned action is neither discriminatory nor



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arbitrary. On account of the conduct of the petitioner, he could not get promotion and he has to blame himself for this. The impugned action is rightly perfect and it does not call for interference by this Court.

5. For the reasons stated above, the writ petition fails and the same is dismissed. Rule is discharged.

Sd/-
JUDGE

MP
280598

